

SUBCHAPTER D—COMMUNITY PROGRAMS AND RELEASE

PART 570—COMMUNITY PROGRAMS

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AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 751, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4161–4166, 5006–5024 (Repealed October 12, 1984, as to offenses committed after that date), 5039; 28 U.S.C. 509, 510.

Subpart A [Reserved]

Subpart B—Pre-Release Community Confinement

SOURCE: 73 FR 62443, Oct. 21, 2008, unless otherwise noted.

§ 570.20 Purpose.

The purpose of this subpart is to provide the procedures of the Bureau of Prisons (Bureau) for designating inmates to pre-release community confinement or home detention.

(a) *Community confinement* is defined as residence in a community treatment center, halfway house, restitution center, mental health facility, alcohol or

drug rehabilitation center, or other community correctional facility (including residential re-entry centers); and participation in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs, or similar facility-approved programs during non-residential hours.

(b) *Home detention* is defined as a program of confinement and supervision that restricts the defendant to his place of residence continuously, except for authorized absences, enforced by appropriate means of surveillance by the probation office or other monitoring authority.

§ 570.21 Time-frames.

(a) *Community confinement*. Inmates may be designated to community confinement as a condition of pre-release custody and programming during the final months of the inmate's term of imprisonment, not to exceed twelve months.

(b) *Home detention*. Inmates may be designated to home detention as a condition of pre-release custody and programming during the final months of the inmate's term of imprisonment, not to exceed the shorter of ten percent of the inmate's term of imprisonment or six months.

(c) *Exceeding time-frames*. These time-frames may be exceeded when separate statutory authority allows greater periods of community confinement as a condition of pre-release custody.

§ 570.22 Designation.

Inmates will be considered for pre-release community confinement in a manner consistent with 18 U.S.C. section 3621(b), determined on an individual basis, and of sufficient duration to provide the greatest likelihood of successful reintegration into the community, within the time-frames set forth in this part.

Subpart C—Furloughs

SOURCE: 46 FR 34552, July 1, 1981, unless otherwise noted.

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§ 570.30 Purpose and scope.

The furlough program of the Bureau of Prisons is intended to help the inmate to attain correctional goals. A furlough is not a right, but a privilege granted an inmate under prescribed conditions. It is not a reward for good behavior, nor a means to shorten a criminal sentence.

[46 FR 34552, July 1, 1981, as amended at 59 FR 3510, Jan. 21, 1994]

§ 570.31 Definitions.

(a) A *furlough* is an authorized absence from an institution by an inmate who is not under escort of a staff member, U.S. Marshal, or state or federal agents. The two types of furlough are:

(1) *Day furlough*—A furlough within the geographic limits of the commuting area of the institution (approximately a 100-mile radius), which lasts 16 hours or less and ends before midnight.

(2) *Overnight furlough*—A furlough which falls outside or beyond the criteria of a day furlough.

(b) An *anticipated release date*, for purposes of this rule, refers to the first of the following dates which applies to an inmate requesting a furlough:

(1) The inmate's mandatory (statutory) release date;

(2) The inmate's minimum expiration date;

(3) The inmate's presumptive parole date; or

(4) The inmate's effective parole date.

[46 FR 34552, July 1, 1981, as amended at 48 FR 45051, Sept. 30, 1983; 59 FR 3510, Jan. 21, 1994]

§ 570.32 Justification for furlough.

(a) The authority to approve furloughs in Bureau of Prisons institutions is delegated to the Warden or Acting Warden. This authority may not be further delegated. An inmate may be authorized a furlough:

(1) To be present during a crisis in the immediate family, or in other urgent situations;

(2) To participate in the development of release plans;

(3) To reestablish family and community ties;

(4) To participate in selected educational, social, civic, religious, and recreational activities which will facilitate release transition;

(5) To transfer directly to another institution or to a non-federal facility;

(6) To appear in court in connection with a civil action;

(7) To comply with an official request to appear before a grand jury, or to comply with a request from a legislative body or regulatory or licensing agency;

(8) To appear in a criminal court proceeding, but only when the use of a furlough is requested or recommended by the applicable court or prosecuting attorney; or

(9) To participate in special training courses or in institution work assignments, including Federal Prison Industries (FPI) work assignments, of 30 calendar days or less, when daily commuting from the institution is not feasible.

(b) The Warden may recommend a furlough for an inmate to obtain necessary medical, surgical, psychiatric, or dental treatment not otherwise available. In addition to the recommendation of the Warden, a furlough of this nature requires the recommendation of the Chief Medical Officer (Chief of Health Programs). Approval for a furlough of this type occurs in one of the following ways:

(1) Staff shall contact the Regional Health Services Administrator for approval when the cost of medical care is at the expense of the government. In case of medical emergency, staff may authorize a furlough for hospitalization and shall notify the Regional Health Services Administrator as soon after the emergency admission as possible.

(2) When medical care expenditures are borne by the inmate, or other non-governmental source, the furlough request requires the approval of the Medical Director and the Assistant Director, Correctional Programs Division.

(c) The Warden may refer a request for a furlough in other situations through the Regional Director to the Assistant Director, Correctional Programs Division for approval.

[46 FR 34552, July 1, 1981, as amended at 48 FR 45051, Sept. 30, 1983; 59 FR 3510, Jan. 21, 1994]

§ 570.33 Expenses of furlough.

(a) Except as provided in paragraphs (b) and (c) of this section, the inmate or the inmate's family or other appropriate source approved by the Warden shall bear all expenses of a furlough, including transportation, food, lodging, and incidentals.

(b) The government may bear the expense of a furlough only when the purpose of the furlough is to obtain necessary medical, surgical, psychiatric, or dental treatment not otherwise available, or to transfer an inmate to another correctional institution (includes community corrections centers), or, if it is for the primary benefit of the government, to participate in special training courses or institutional work assignments (including FPI work assignments) as outlined in § 570.32(a)(9).

(c) The Warden may allow an inmate scheduled for transfer to a community corrections center (CCC) to choose the means of transportation to the CCC if all transportation costs are borne by the inmate. An inmate traveling under these provisions is expected to go directly as scheduled from the institution to the CCC.

[48 FR 45052, Sept. 30, 1983, as amended at 59 FR 3510, Jan. 21, 1994; 59 FR 53937, Oct. 27, 1994]

§ 570.34 Eligibility requirements.

(a) Except as provided in paragraph (b) of this section, the Warden may grant a furlough only to an inmate with community custody.

(b) The Warden may grant a furlough to an inmate with "out" custody only when the furlough is for the purpose of transferring directly to another institution (except community corrections centers) or for obtaining local medical treatment not otherwise available at the institution.

(c) The Warden may grant a furlough only to an inmate the Warden determines to be physically and mentally capable of completing the furlough.

(d) The Warden may grant a furlough only to an inmate who has demonstrated sufficient responsibility to provide reasonable assurance that furlough requirements will be met.

(e) The Warden shall determine the eligibility of an inmate for furlough in

accord with the inmate's anticipated release date and the basis for the furlough request.

(1) The Warden may approve only an emergency furlough (family crisis or other urgent situation) for an inmate who has been confined at the initially designated institution for less than 90 days.

(2) The Warden may approve only an emergency furlough for an inmate with more than two years remaining until the inmate's anticipated release date.

(3) The Warden may approve a day furlough for an inmate with two years or less remaining until the inmate's anticipated release date.

(4) The Warden may approve an overnight furlough within the institution's commuting area for an inmate with 18 months or less remaining until the inmate's anticipated release date.

(5) The Warden may approve an overnight furlough outside the institution's commuting area for an inmate with one year or less remaining until the inmate's anticipated release date. The Warden may ordinarily approve an overnight furlough not to exceed once each 90 days.

(6) If the Warden approves a furlough outside the above guidelines, the Warden shall document the reasons in the inmates's central file.

[46 FR 34552, July 1, 1981, as amended at 48 FR 45052, Sept. 30, 1983; 49 FR 8566, Mar. 7, 1984; 59 FR 3511, Jan. 21, 1994]

§ 570.35 Limitations on eligibility.

(a) The Warden ordinarily may not grant a furlough to an inmate convicted of a serious crime against the person and/or whose presence in the community could attract undue public attention, create unusual concern, or depreciate the seriousness of the offense. If the Warden approves a furlough for such an inmate, the Warden must place a statement of the reasons for this action in the inmate's central file.

(b) The Warden may approve a furlough for an inmate classified a central monitoring case upon compliance with the requirements of this rule and the requirements of part 524, subpart F.

(c) Staff at a contract facility may approve a furlough for a sentenced inmate housed in the contract facility as

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specified in that facility's written agreement with the Bureau of Prisons.

(d) The Bureau of Prisons does not have the authority to furlough U.S. Marshals prisoners in contract jails. Staff are to refer requests for such furloughs to the U.S. Marshals.

(e) Furlough for pretrial inmates will be arranged in accordance with the rule on pretrial inmates (see part 551, subpart J).

[46 FR 34552, July 1, 1981, as amended at 48 FR 45052, Sept. 30, 1983]

§ 570.36 Procedures.

(a) An inmate who meets the eligibility requirements of this rule may submit to staff an application for furlough.

(b) Before approving the application, staff shall verify that a furlough is indicated.

(c) Staff shall notify an inmate of the decision on the inmate's application for furlough. Where an application for furlough is denied, staff shall notify the inmate of the reasons for denial.

(d) Each inmate who is approved for a furlough must agree to abide by the specified conditions (table 1) of the furlough.

TABLE 1—CONDITIONS OF FURLOUGH

1. I will not violate the laws of any jurisdiction (federal, state, or local). I understand that I am subject to prosecution for escape if I fail to return to the institution at the designated time.

2. I will not leave the area of my furlough without permission, with the exception of traveling to the furlough destination, and returning to the institution.

3. While on furlough status, I understand that I remain in the custody of the U.S. Attorney General. I agree to conduct myself in a manner not to bring discredit to myself or to the Bureau of Prisons. I understand that I am subject to arrest and/or institution disciplinary action for violating any conditions(s) of my furlough.

4. I will not purchase, possess, use, consume, or administer any narcotic drugs, marijuana, intoxicants in any form, nor will I frequent any place where such articles are unlawfully sold, dispensed, used, or given away.

5. I will not use any medication that is not prescribed and given to me by the institution medical department for use or prescribed by a licensed physician while I am on furlough. I will not have any medical/dental/surgical/psychiatric treatment without the written

permission of staff, except where an emergency arises and necessitates such treatment. I will notify institution staff of any prescribed medication or treatment received in the community upon my return to the institution.

6. I will not have in my possession any firearm or other dangerous weapon.

7. I will not get married, sign any legal papers, contracts, loan applications, or conduct any business without the written permission of staff.

8. I will not associate with persons having a criminal record or with those persons who I know are engaged in illegal occupations.

9. I agree to contact the institution (or United States Probation Officer) in the event of arrest, or any other serious difficulty or illness.

10. I will not drive a motor vehicle without the written permission of staff. I understand that I must have a valid driver's license and sufficient insurance to meet any applicable financial responsibility laws.

11. I will not return from furlough with any article I did not take out with me (for example, clothing, jewelry, or books). I understand that I may be thoroughly searched and given a urinalysis and/or breathalyzer and/or other comparable test upon my return to the institution. I understand that I will be held accountable for the results of the search and tests(s).

12. Special Instructions:

I have read, or had read to me, and I understand the above conditions concerning my furlough and agree to abide by them.

Inmate's Signature _____

Reg. No _____

Date _____

Signature/Printed Name of Staff Witness _____

(e) Upon completion of an inmate's furlough, staff shall record in the inmate's central file anything unusual which occurred during the furlough.

[46 FR 34552, July 1, 1981, as amended at 48 FR 45052, Sept. 30, 1983]

§ 570.37 Violation of furlough.

An inmate who absconds from furlough or fails to meet any of the conditions of the furlough is deemed to be an escapee under 18 U.S.C. 4082, 751.

(a) Staff shall process as an escapee an inmate who absconds from furlough.

(b) Staff may take disciplinary action against an inmate who fails to comply with any of the conditions of the furlough.

[48 FR 45052, Sept. 30, 1983]

Subpart D—Escorted Trips

SOURCE: 50 FR 48366, Nov. 22, 1985, unless otherwise noted.

§ 570.40 Purpose and scope.

The Bureau of Prisons provides approved inmates with staff-escorted trips into the community for such purposes as receiving medical treatment not otherwise available, for visiting a critically-ill member of the inmate's immediate family, or for participating in program or work-related functions.

§ 570.41 Medical escorted trips.

(a) Medical escorted trips are intended to provide an inmate with medical treatment not available within the institution. There are two types of medical escorted trips.

(1) *Emergency medical escorted trip.* An escorted trip occurring as the result of an unexpected life-threatening medical situation requiring immediate medical treatment not available at the institution. The required treatment may be on either an in-patient or out-patient basis.

(2) *Non-emergency medical escorted trip.* A pre-planned escorted trip for the purpose of providing an inmate with medical treatment ordinarily not available at the institution. The required treatment may be on either an in-patient or out-patient basis.

(b) The Clinical Director or designee is responsible for determining whether a medical escorted trip is appropriate.

(c) *Escorted trip procedures—out-patient medical treatment.* A recommendation for an inmate to receive a medical escorted trip is prepared by medical staff, forwarded through the appropriate staff for screening and clearance, and then submitted to the Warden for review. The Warden may approve an inmate for an out-patient medical escorted trip.

(d) *Escorted trip procedures—in-patient medical treatment.* A recommendation for an inmate to receive a medical escorted trip is prepared by medical staff, forwarded through the appropriate staff for screening and clearance, and then submitted to the Warden. The Warden may approve an in-

mate for an in-patient medical escorted trip.

[50 FR 48366, Nov. 22, 1985, as amended at 57 FR 21158, May 18, 1992]

§ 570.42 Non-medical escorted trips.

(a) Non-medical escorted trips allow an inmate to leave the institution under staff escort for approved, non-medical reasons. There are two types of non-medical escorted trips.

(1) *Emergency non-medical escorted trip.* An escorted trip for such purposes as allowing an inmate to attend the funeral of, or to make a bedside visit to, a member of an inmate's immediate family. For purposes of this rule, immediate family refers to mother, father, brother, sister, spouse, children, step-parents, and foster parents.

(2) *Non-emergency, non-medical escorted trip.* An escorted trip for such purposes as allowing inmates to participate in program-related functions, such as educational or religious activities, or in work-related functions.

(b) *Escorted trip procedures—emergency non-medical reasons.* Unit staff are to investigate, and determine, the merits of an escorted trip following a review of the available information. This includes contacting those persons (e.g., attending physician, hospital staff, funeral home staff, family members, U.S. Probation Officer) who can contribute to a determination on whether an escorted trip should be approved.

(1) The government assumes the salary expenses of escort staff for the first eight hours of each day. All other expenses, including transportation costs, are assumed by the inmate, the inmate's family, or other appropriate source approved by the Warden. The necessary funds must be deposited to the inmate's trust fund account prior to the trip. Funds paid by the inmate for purposes of the escorted trip are then drawn, payable to the Treasury of the United States. Unexpended funds are returned to the inmate's trust fund account following the completion of the trip.

(2) A request for an inmate to receive an emergency non-medical escorted trip is prepared by unit staff, forwarded through the appropriate staff for

screening and clearance, and then submitted to the Warden. Except as specified in § 570.43, the Warden may approve an inmate for an emergency non-medical escorted trip.

(c) *Escorted trip procedures—non-emergency, non-medical reasons.* This type of escorted trip is considered for an inmate who has been at the institution for at least 90 days, and who is considered eligible for less secure housing and for work details, under minimal supervision, outside the institution's perimeter. A recommendation for an inmate to receive an escorted trip for non-emergency, non-medical reasons is prepared by the recommending staff, forwarded through the appropriate staff for screening and clearance, and then submitted to the Warden. Except as specified in § 570.43, the Warden may approve an inmate for a non-emergency, non-medical escorted trip.

§ 570.43 Inmates requiring a high degree of control and supervision.

Only the Regional Director may approve a non-medical escorted trip (either emergency or non-emergency) for an inmate determined to require a high degree of control and supervision.

§ 570.44 Supervision and restraint requirements.

Inmates under escort will be within the constant and immediate visual supervision of escorting staff at all times. Restraints may be applied to an inmate going on an escorted trip, after considering the purpose of the escorted trip and the degree of supervision required by the inmate. Except for escorted trips for a medical emergency, an inmate going on an escorted trip must agree in writing to the conditions of the escorted trip (for example, agrees not to consume alcohol).

§ 570.45 Violation of escorted trip.

(a) Staff shall process as an escapee an inmate who absconds from an escorted trip.

(b) Staff may take disciplinary action against an inmate who fails to comply with any of the conditions of the escorted trip.

PART 571—RELEASE FROM CUSTODY

Subpart A [Reserved]

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AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 3565; 3568–3569 (Repealed in part as to offenses committed on or after November 1, 1987), 3582, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or

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after November 1, 1987), 4161-4166 and 4201-4218 (Repealed as to offenses committed on or after November 1, 1987), 5006-5024 (Repealed October 12, 1984, as to offenses committed after that date), 5031-5042; 28 U.S.C. 509, 510; U.S. Const., Art. II, Sec. 2; 28 CFR 1.1-1.10.

SOURCE: 44 FR 38254, June 29, 1979, unless otherwise noted.

Subpart A [Reserved]

Subpart B—Release Preparation Program

SOURCE: 59 FR 35456, July 11, 1994, unless otherwise noted.

§ 571.10 Purpose and scope.

The Bureau of Prisons recognizes that an inmate's preparation for release begins at initial commitment and continues throughout incarceration and until final release to the community. This subpart establishes a standardized release preparation program for all sentenced inmates reintegrating into the community from Bureau facilities. Exception to this subpart may be made by the Warden of a Bureau facility which has been designated as an administrative maximum security institution.

[61 FR 38043, July 22, 1996]

§ 571.11 Program responsibility.

The Warden shall designate to a staff member the responsibility to:

- (a) Determine the general release needs of the inmate population;
- (b) Coordinate the institution release preparation program;
- (c) Chair the Release Preparation Program Committee;
- (d) Contact and schedule volunteers from the local community to participate in the release preparation program.

§ 571.12 General characteristics.

(a) Staff shall structure the release preparation program to make extensive use of staff, inmate, and community resources.

(b) Staff shall strongly encourage and support an inmate's participation in the institution release preparation program. Staff shall document the in-

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mate's participation in the program in the inmate's central file.

§ 571.13 Institution release preparation program.

(a) The institution release preparation program shall be administered by the Release Preparation Program Committee.

(b) The institution release preparation program will be based on a core curriculum of topics/courses organized into six broad categories. The six categories are:

- (1) Health and nutrition.
- (2) Employment.
- (3) Personal finance/consumer skills.
- (4) Information/community resources.
- (5) Release requirements and procedures.

(c) To assist in the release process, the Warden may, in accordance with the Bureau of Prisons' rule on furloughs, grant an inmate a furlough for release preparation purposes.

(d) Staff shall help an inmate obtain proper identification (social security card, driver's license, birth certificate, and/or any other documents needed by the inmate) prior to release.

(e) An inmate who is not being released through a Community Corrections Center (CCC) may ask staff to request the assistance of a United States Probation Officer in establishing a release plan. Bureau staff are to encourage the inmate to give at least one employment lead or contact. Where the inmate or the inmate's family has already identified employment, the case manager shall notify the United States Probation Officer so that the usual verification of release plans may be made. Where employment has not been identified, the case manager shall notify the United States Probation Officer of the employment need. This notification should ordinarily occur at least six weeks prior to the inmate's release.

Subpart C—Release Gratuities, Transportation, and Clothing

SOURCE: 56 FR 23480, May 21, 1991, unless otherwise noted.

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§ 571.20 Purpose and scope.

It is the policy of the Bureau of Prisons that an inmate being released to the community will have suitable clothing, transportation to the inmate's release destination, and some funds to use until he or she begins to receive income. Based on the inmate's need and financial resources, a discretionary gratuity up to the amount permitted by statute may be granted.

[61 FR 47795, Sept. 10, 1996]

§ 571.21 Procedures.

(a) An inmate is eligible for a gratuity as determined by the availability of personal and community resources. Greater consideration may be given to an inmate without funds or community resources.

(b) A federal prisoner boarded in a non-federal facility is eligible for a release gratuity. The director of the non-federal facility housing federal inmates or the community corrections manager shall determine the amount of release gratuity in accordance with the purpose and scope of this regulation for federal inmates housed in non-federal facilities.

(c) An inmate who is without personal funds may receive a gratuity when transferred to a community corrections center. The amount shall enable the inmate to care for needs in transit and allow for the purchase of necessary personal items upon arrival.

(d) Staff shall provide the inmate released to a detainer with information on how to apply for a gratuity if released prior to expiration of the federal sentence.

(e) Staff will ensure that each alien released to immigration authorities for the purpose of release or transfer to a community corrections center has \$10 cash. This provision does not apply to aliens being released for the purpose of deportation, exclusion, or removal, or to aliens detained or serving 60 days or less in contract facilities.

[56 FR 23480, May 21, 1991, as amended at 68 FR 34300, June 9, 2003]

§ 571.22 Release clothing and transportation.

(a) Staff shall provide release clothing appropriate for the time of year and the inmate's geographical destination. Upon request, work clothing will be provided. Nonavailability of work clothing may limit this practice.

(b) Inmates transferring to a community corrections center will be provided adequate clothing to complete a job search and perform work. Additionally, an outer garment, seasonably suited for the geographical destination will be provided.

(c) Transportation will be provided to an inmate's place of conviction or to his/her legal residence within the United States or its territories.

[56 FR 23480, May 21, 1991, as amended at 68 FR 34302, June 9, 2003]

Subpart D—Release of Inmates Prior to a Weekend or Legal Holiday

§ 571.30 Purpose and scope.

The Bureau of Prisons may release an inmate whose release date falls on a Saturday, Sunday, or legal holiday, on the last preceding weekday unless it is necessary to detain the inmate for another jurisdiction seeking custody under a detainer, or for any other reason which might indicate that the inmate should not be released until the inmate's scheduled release date.

(a) The release authority for inmates convicted of offenses occurring prior to November 1, 1987 is pursuant to 18 U.S.C. 4163. The number of days used under 18 U.S.C. 4163 may not be added to the number of days remaining to be served to release an inmate "as if * * * on parole" (18 U.S.C. 4164) who would otherwise have been released by expiration of sentence.

(b) The release authority for inmates sentenced under the provisions of the Sentencing Reform Act of the Comprehensive Crime Control Act of 1984 for offenses committed on/or after November 1, 1987 is pursuant to 18 U.S.C. 3624(a).

[54 FR 49070, Nov. 28, 1989]

Subpart E—Petition for Commutation of Sentence

§ 571.40 Purpose and scope.

An inmate may file a petition for commutation of sentence in accordance with the provisions of 28 CFR part 1.

(a) An inmate may request from the inmate's case manager the appropriate forms (and instructions) for filing a petition for commutation of sentence.

(b) When specifically requested by the U.S. Pardon Attorney, the Director, Bureau of Prisons will forward a recommendation on the inmate's petition for commutation of sentence.

[47 FR 9756, Mar. 5, 1982]

§ 571.41 Procedures.

(a) Staff shall suggest that an inmate who wishes to submit a petition for commutation of sentence do so through the Warden to the U.S. Pardon Attorney. This procedure allows institution staff to forward with the application the necessary supplemental information (for example, sentencing information, presentence report, progress report, pertinent medical records if the petition involves the inmate's health, etc.). Except as provided in paragraph (b) of this section, no Bureau of Prisons recommendation is to be forwarded with the package of material submitted to the U.S. Pardon Attorney.

(b) When specifically requested by the U.S. Pardon Attorney, the Director, Bureau of Prisons shall submit a recommendation on the petition. Prior to making a recommendation, the Director may request comments from the Warden at the institution where the inmate is confined. Upon review of those comments, the Director will forward a recommendation on the petition to the U.S. Pardon Attorney.

(c) When a petition for commutation of sentence is granted by the President of the United States, the U.S. Pardon Attorney will forward the original of the signed and sealed warrant of clemency evidencing the President's action to the Warden at the detaining institution, with a copy to the Director, Bureau of Prisons. The Warden shall deliver the original warrant to the affected inmate, and obtain a signed re-

ceipt for return to the U.S. Pardon Attorney. The Warden shall take such action as is indicated in the warrant of clemency.

(1) If a petition for commutation of sentence is granted, institutional staff shall recalculate the inmate's sentence in accordance with the terms of the commutation order.

(2) If the commutation grants parole eligibility, the inmate is to be placed on the appropriate parole docket.

(d) When a petition for commutation of sentence is denied, the U.S. Pardon Attorney ordinarily notifies the Warden, requesting that the Warden notify the inmate of the denial.

[47 FR 9756, Mar. 5, 1982, as amended at 57 FR 34663, Aug. 5, 1992]

Subpart F—Fines and Costs

SOURCE: 48 FR 48971, Oct. 21, 1983, unless otherwise noted.

§ 571.50 Purpose and scope.

This subpart establishes procedures for processing a fine, or fine and costs ordered by the court with respect to an inmate convicted of an offense committed before November 1, 1987. When the court orders a prisoner's confinement until payment of a fine, or fine and costs under 18 U.S.C. 3565, the Bureau of Prisons shall confine that inmate until the fine, or fine and costs are paid, unless the inmate qualifies for release under 18 U.S.C. 3569.

(a) An inmate held on the sole basis of his/her inability to pay such fine, or fine and costs, and whose non-exempt property does not exceed \$20.00 may request discharge from imprisonment on the basis of indigency (see 18 U.S.C. 3569).

(b) Under 18 U.S.C. 3569, the determination of indigency may be made by a U.S. Magistrate Judge. Where the U.S. Magistrate Judge makes a finding of non-indigency based on the inmate's application for a determination of his ability to pay the committed fine, or fine and costs, staff shall refer the application to the appropriate United States Attorney for the purpose of making a final decision on the inmate's discharge under 18 U.S.C. 3569.

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It is to be noted that 18 U.S.C. 3569 provides for confining an inmate for non-payment of a committed fine, or fine and costs.

[63 FR 4357, Jan. 28, 1998]

§ 571.51 Definitions.

(a) *Fine*—a monetary penalty associated with an offense imposed as part of a judgment and commitment. There are two types of fines.

(1) *Committed fine*—a monetary penalty imposed with a condition of imprisonment until the fine is paid.

(2) *Non-committed fine*—a monetary penalty which has no condition of confinement imposed.

(b) *Costs*—Monetary costs of the legal proceeding which the court may levy. Imposition of costs is similar in legal effect to imposition of a fine. The court may also impose costs with a condition of imprisonment.

[48 FR 48971, Oct. 21, 1983, as amended at 63 FR 4357, Jan. 28, 1998]

§ 571.52 Procedures—committed fines.

(a)(1) Promptly after the inmate's commitment, staff shall inform the inmate that there is a committed fine, or fine and costs on file, as part of the sentence. Staff shall then impound the inmate's trust fund account until the fine, or fine and costs is paid, except—

(i) The inmate may spend money from his/her trust fund account for the purchase of commissary items not exceeding the maximum monthly allowance authorized for such purchases.

(ii) Staff may authorize the inmate to make withdrawals from his/her trust fund account for emergency family, emergency personal needs or furlough purposes.

(2) This rule of impounding an inmate's trust fund account applies only when the inmate is confined in a federal institution. It does not apply to a federal inmate confined in a state institution or a contract community-based facility.

(b) If the inmate pays the committed fine, or fine and costs, or staff have verified payment, staff shall document payment in the appropriate file and release the inmate's trust fund account from impoundment.

(c) Staff shall interview the inmate with an unpaid committed fine at least 75 days prior to the inmate's release date. Staff shall explain to the inmate that to secure release without paying the committed fine, or fine and costs in full, the inmate must make an application, on the appropriate form, to the U.S. Magistrate Judge for determination as to whether the inmate can be declared indigent under 18 U.S.C. 3569.

[63 FR 4357, Jan. 28, 1998]

§ 571.53 Determination of indigency by U.S. Magistrate—inmates in federal institutions.

(a) An inmate with a committed fine, or fine and costs who is imprisoned in a federal institution may make application for a determination of indigency directly to the U.S. Magistrate Judge in the district where the inmate is imprisoned under 18 U.S.C. 3569.

(b) After completion of the application, staff shall offer to forward the completed forms and any other applicable information the inmate chooses to the U.S. Magistrate Judge.

(c) If the U.S. Magistrate Judge finds that the inmate is indigent, the U.S. Magistrate Judge will administer the oath to the inmate. The inmate shall be released no earlier than the regularly established release date.

(d) If the U.S. Magistrate Judge finds that the inmate is not indigent, Bureau staff shall forward a referral package to the appropriate United States Attorney for a final determination as to the inmate's ability to pay the committed fine, or fine and costs.

[63 FR 4357, Jan. 28, 1998]

§ 571.54 Determination of indigency by U.S. Magistrate Judge—inmates in contract community-based facilities or state institutions.

(a) Inmates with a committed fine, or fine and costs may be transferred to contract community-based facilities, state institutions as boarders, or state institutions for service of federal sentences running concurrently with state sentences.

(b) Inmates with a committed fine, or fine and costs may be committed directly to contract community-based facilities or state institutions as boarders or may be designated to state institutions for service of federal sentences running concurrently with state sentences.

(c) An inmate with a committed fine, or fine and costs who is imprisoned in a contract community-based facility or state institution and desires to make application for a determination of ability to pay the committed fine, or fine and costs under 18 U.S.C. 3569 may make application directly to the U.S. Magistrate Judge.

(d) Upon receipt of a finding by the U.S. Magistrate Judge that the inmate is not indigent, Bureau staff shall forward a referral package to the appropriate United States Attorney for a final determination as to the inmate's ability to pay the committed fine, or fine and costs.

[63 FR 4357, Jan. 28, 1998]

Subpart G—Compassionate Release (Procedures for the Implementation of 18 U.S.C. 3582(c)(1)(A) and 4205(g))

SOURCE: 59 FR 1238, Jan. 7, 1994, unless otherwise noted.

§ 571.60 Purpose and scope.

Under 18 U.S.C. 4205(g), a sentencing court, on motion of the Bureau of Prisons, may make an inmate with a minimum term sentence immediately eligible for parole by reducing the minimum term of the sentence to time served. Under 18 U.S.C. 3582(c)(1)(A), a sentencing court, on motion of the Director of the Bureau of Prisons, may reduce the term of imprisonment of an inmate sentenced under the Comprehensive Crime Control Act of 1984. The Bureau uses 18 U.S.C. 4205(g) and 18 U.S.C. 3582(c)(1)(A) in particularly extraordinary or compelling circumstances which could not reasonably have been foreseen by the court at the time of sentencing.

§ 571.61 Initiation of request—extraordinary or compelling circumstances.

(a) A request for a motion under 18 U.S.C. 4205(g) or 3582(c)(1)(A) shall be submitted to the Warden. Ordinarily, the request shall be in writing, and submitted by the inmate. An inmate may initiate a request for consideration under 18 U.S.C. 4205(g) or 3582(c)(1)(A) only when there are particularly extraordinary or compelling circumstances which could not reasonably have been foreseen by the court at the time of sentencing. The inmate's request shall at a minimum contain the following information:

(1) The extraordinary or compelling circumstances that the inmate believes warrant consideration.

(2) Proposed release plans, including where the inmate will reside, how the inmate will support himself/herself, and, if the basis for the request involves the inmate's health, information on where the inmate will receive medical treatment, and how the inmate will pay for such treatment.

(b) The Bureau of Prisons processes a request made by another person on behalf of an inmate in the same manner as an inmate's request. Staff shall refer a request received at the Central Office or at a Regional Office to the Warden of the institution where the inmate is confined.

§ 571.62 Approval of request.

(a) The Bureau of Prisons makes a motion under 18 U.S.C. 4205(g) or 3582(c)(1)(A) only after review of the request by the Warden, the Regional Director, the General Counsel, and either the Medical Director for medical referrals or the Assistant Director, Correctional Programs Division for non-medical referrals, and with the approval of the Director, Bureau of Prisons.

(1) The Warden shall promptly review a request for consideration under 18 U.S.C. 4205(g) or 3582(c)(1)(A). If the Warden, upon an investigation of the request determines that the request warrants approval, the Warden shall refer the matter in writing with recommendation to the Regional Director.

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(2) If the Regional Director determines that the request warrants approval, the Regional Director shall prepare a written recommendation and refer the matter to the Office of General Counsel.

(3) If the General Counsel determines that the request warrants approval, the General Counsel shall solicit the opinion of either the Medical Director or the Assistant Director, Correctional Programs Division depending upon the nature of the basis of the request. With this opinion, the General Counsel shall forward the entire matter to the Director, Bureau of Prisons, for final decision.

(4) If the Director, Bureau of Prisons, grants a request under 18 U.S.C. 4205(g), the Director will contact the U.S. Attorney in the district in which the inmate was sentenced regarding moving the sentencing court on behalf of the Bureau of Prisons to reduce the minimum term of the inmate's sentence to time served. If the Director, Bureau of Prisons, grants a request under 18 U.S.C. 3582(c)(1)(A), the Director will contact the U.S. Attorney in the district in which the inmate was sentenced regarding moving the sentencing court on behalf of the Director of the Bureau of Prisons to reduce the inmate's term of imprisonment to time served.

(b) Upon receipt of notice that the sentencing court has entered an order granting the motion under 18 U.S.C. 4205(g), the Warden of the institution where the inmate is confined shall schedule the inmate for hearing on the earliest Parole Commission docket. Upon receipt of notice that the sentencing court has entered an order granting the motion under 18 U.S.C. 3582(c)(1)(A), the Warden of the institution where the inmate is confined shall release the inmate forthwith.

(c) In the event the basis of the request is the medical condition of the inmate, staff shall expedite the request at all levels.

§ 571.63 Denial of request.

(a) When an inmate's request is denied by the Warden or Regional Director, the disapproving official shall provide the inmate with a written notice and statement of reasons for the de-

nial. The inmate may appeal the denial through the Administrative Remedy Procedure (28 CFR part 542, subpart B).

(b) When an inmate's request for consideration under 18 U.S.C. 4205(g) or 3582(c)(1)(A) is denied by the General Counsel, the General Counsel shall provide the inmate with a written notice and statement of reasons for the denial. This denial constitutes a final administrative decision.

(c) When the Director, Bureau of Prisons, denies an inmate's request, the Director shall provide the inmate with a written notice and statement of reasons for the denial within 20 workdays after receipt of the referral from the Office of General Counsel. A denial by the Director constitutes a final administrative decision.

(d) Because a denial by the General Counsel or Director, Bureau of Prisons, constitutes a final administrative decision, an inmate may not appeal the denial through the Administrative Remedy Procedure.

§ 571.64 Ineligible offenders.

The Bureau of Prisons has no authority to initiate a request under 18 U.S.C. 4205(g) or 3582(c)(1)(A) on behalf of state prisoners housed in Bureau of Prisons facilities or D.C. Code offenders confined in federal institutions. The Bureau of Prisons cannot initiate such a motion on behalf of federal offenders who committed their offenses prior to November 1, 1987, and received non-parolable sentences.

Subpart H—Designation of Offenses for Purposes of 18 U.S.C. 4042(c)

SOURCE: 63 FR 69387, Dec. 16, 1998, unless otherwise noted.

§ 571.71 Purpose and scope.

The Director of the Bureau of Prisons is required to provide release and registration information (offender's name, criminal history, projected address, release conditions or restrictions) to state/local law enforcement and registration officials at least five calendar days prior to release of offenders who have been convicted of certain sexual offenses listed in 18 U.S.C. 4042(c)(4)(A)

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through (D). Under 18 U.S.C. 4042(c)(4)(E), the Attorney General is authorized to designate additional offenses as sexual offenses for the purpose of sex offender release notification and other related purposes. This authority has been delegated to the Director.

§ 571.72 Additional designated offenses.

The following offenses are designated as additional sexual offenses for purposes of 18 U.S.C. 4042(c):

(a) Any offense under the law of any jurisdiction that involved:

(1) Engaging in sexual contact with another person without obtaining permission to do so (forcible rape, sexual assault, or sexual battery);

(2) Possession, distribution, mailing, production, or receipt of child pornography or related paraphernalia;

(3) Any sexual contact with a minor or other person physically or mentally incapable of granting consent (indecent liberties with a minor, statutory rape, sexual abuse of the mentally ill, rape by administering a drug or substance);

(4) Any sexual act or contact not identified in paragraphs (a)(1) through (3) of this section that is aggressive or abusive in nature (rape by instrument, encouraging use of a minor for prostitution purposes, incest);

(5) An attempt to commit any of the actions described in paragraphs (a)(1) through (4) of this section.

(b) The following Defense Incident Based Reporting System (DIBRS) Code offenses under the Uniform Code of Military Justice:

(1) 120A (Rape);

(2) 120B1/2 (Carnal knowledge);

(3) 125A (Forcible sodomy);

(4) 125B1/2 (Sodomy of a minor);

(5) 133D (Conduct unbecoming an Officer [involving any sexually violent offense or a criminal offense of a sexual nature against a minor or kidnaping of a minor]);

(6) 134-B6 (Prostitution involving a minor);

(7) 134-C1 (Indecent assault);

(8) 134-C4 (Assault with intent to commit rape);

(9) 134-C6 (Assault with intent to commit sodomy);

(10) 134-R1 (Indecent act with a minor);

(11) 134-R3 (Indecent language to a minor);

(12) 134-S1 (Kidnaping of a minor (by a person not a parent));

(13) 134-Z (Pornography involving a minor);

(14) 134-Z (Conduct prejudicial to good order and discipline (involving any sexually violent offense or a criminal offense of a sexual nature against a minor or kidnaping of a minor));

(15) 134-Y2 (Assimilative crime conviction (of a sexually violent offense or a criminal offense of a sexual nature against a minor or kidnaping of a minor)).

(16) 080-A (Attempt (to commit any offense listed in paragraphs (b)(1)-(15) of this section));

(17) 081-A (Conspiracy (to commit any offense listed in paragraphs (b)(1)-(15) of this section));

(18) 082-A (Solicitation (to commit any offense listed in paragraphs (b)(1)-(15) of this section)).

(c) The following District of Columbia Code offenses:

(1) § 22-501 (Assault) if it includes assault with the intent to commit first degree sexual abuse, second degree sexual abuse, or child sexual abuse;

(2) § 22-2012 (Sexual performances using minors—prohibited acts);

(3) § 22-2013 (Sexual performances using minors—penalties);

(4) § 22-2101 (Kidnaping) where the victim is a minor;

(5) § 22-2401 (Murder in the first degree) if it includes murder while committing or attempting to commit first degree sexual abuse;

(6) § 22-2704 (Abducting or enticing child from his or her home for purposes of prostitution; harboring such child);

(7) § 22-4102 (First degree sexual abuse);

(8) § 22-4103 (Second degree sexual abuse);

(9) § 22-4104 (Third degree sexual abuse);

(10) § 22-4105 (Fourth degree sexual abuse);

(11) § 22-4106 (Misdemeanor sexual abuse);

(12) § 22-4108 (First degree child sexual abuse);

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- (13) § 22-4109 (Second degree child sexual abuse);
- (14) § 22-4110 (Enticing a child);
- (15) § 22-4113 (First degree sexual abuse of a ward);
- (16) § 22-4114 (Second degree sexual abuse of a ward);
- (17) § 22-4115 (First degree sexual abuse of a patient or client);
- (18) § 22-4116 (Second degree sexual abuse of a patient or client);
- (19) § 22-4118 (Attempts to commit sexual offenses);
- (20) § 22-4120 (Aggravating circumstances).
- (21) § 22-103 (Attempts to commit crime) if it includes an attempt to commit any offense listed in paragraphs (c)(1)-(20) of this section.

PART 572—PAROLE

Subparts A-C [Reserved]

Subpart D—Parole and Mandatory Release Violator Reports

Sec.

572.30 Purpose and scope.

572.31 Procedures.

Subpart E—Compassionate Release (Procedures for the Implementation of 18 U.S.C. 4205(g))

572.40 Compassionate release under 18 U.S.C. 4205(g).

AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4205, 5015 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

Subparts A-C [Reserved]

Subpart D—Parole and Mandatory Release Violator Reports

§ 572.30 Purpose and scope.

The Bureau of Prisons provides the U.S. Parole Commission with a Viola-

tor Report for use at the revocation hearing of a parole or mandatory release violator, when that hearing is conducted in an institution of the Bureau of Prisons.

[45 FR 33941, May 20, 1980]

§ 572.31 Procedures.

Staff shall prepare the Violator Report to include the following information:

- (a) The inmate's original offense, sentence imposed, date and district;
- (b) Description of release procedure;
- (c) Alleged violation(s) of parole or mandatory release;
- (d) Inmate's comments concerning the alleged violation(s);
- (e) An outline of the inmate's activities while under supervision on parole or mandatory release; and
- (f) At the option of the inmate, statement of current release plans and available community resources.

[45 FR 33941, May 20, 1980]

Subpart E—Compassionate Release (Procedures for the Implementation of 18 U.S.C. 4205(g))

§ 572.40 Compassionate release under 18 U.S.C. 4205(g).

18 U.S.C. 4205(g) was repealed effective November 1, 1987, but remains the controlling law for inmates whose offenses occurred prior to that date. For inmates whose offenses occurred on or after November 1, 1987, the applicable statute is 18 U.S.C. 3582(c)(1)(A). Procedures for compassionate release of an inmate under either provision are contained in 28 CFR part 571, subpart G.

[59 FR 1239, Jan. 7, 1994]